

# In the Court of Appeals of the State of Alaska

**Jerry A. Active,**

Appellant,

v.

**State of Alaska,**

Appellee.

Court of Appeals No. **A-12397**

## **Order**

Date of Order: **April 27, 2020**

Trial Court Case No. **3AN-13-05742CR**

Before: Allard, Chief Judge, Harbison, Judge, and  
Mannheimer, Senior Judge.

The Alaska Supreme Court has remanded this case to this Court, directing us to resolve the question of whether, at Active’s criminal trial, the prosecutor could lawfully comment upon Active’s refusal to give his name when the police asked him to identify himself. Active argues that, under the Alaska Constitution, he had a right to refuse to identify himself — and also that the Alaska Constitution prohibited the government from commenting on this matter at his trial.

To assist this Court in resolving this question, we direct the parties to file supplemental briefs. Active’s brief shall be filed on or before May 27, 2020, and the State’s brief shall be filed 30 days thereafter. These deadlines may be extended for good cause. The parties’ briefs shall comply with the requirements of Appellate Rule 212(c).

To the extent that Active will be arguing that the protection afforded by the Alaska Constitution is different from, and broader than, the protection afforded by the federal Constitution, Active’s brief must discuss how the text, context, or history of the Alaska Constitution justifies this divergent interpretation.

(*See Abood v. League of Women Voters*, 743 P.2d 333, 340–43 (Alaska 1987); *State v. Wassillie*, 606 P.2d 1279, 1281–82 (Alaska 1980); *Mitchell v. State*, 818

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P.2d 1163, 1165 (Alaska App. 1991); *State v. Dankworth*, 672 P.2d 148, 151 (Alaska App. 1983).)

Upon receipt of the parties' supplemental briefs, this Court will renew its consideration of Active's appeal.

Entered at the direction of the Court.

Clerk of the Appellate Courts



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Ryan Montgomery-Sythe,  
Chief Deputy Clerk

cc: Court of Appeals Judges  
Trial Court Clerk

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